

C O P Y

27

NEW HAMPSHIRE LAW LIBRARY

SEP 03 1998

CONCORD, N.H.

1951

May 24

Mr. Parker L. Hancock, Warden  
New Hampshire State Prison  
Concord, New Hampshire

Dear Sir:

You have inquired regarding the legality of using water from the Merrimack River for irrigating a total of 68 acres of land owned by the State of New Hampshire bordering on the Merrimack River at an estimated 5,000,000 gallons per season, used at an approximate rate of 1,628,290 gallons during a pumping period of seven days at twelve hours per day for each period of use.

It is my opinion that such a use of water from the Merrimack River by the State Prison is legally valid. A riparian owner has a right to the reasonable use of water as it passes his land, either for his own purpose or for a sale to others, Gillis v. Chase 31 A 18, 67 N. H. 161. Such a use includes domestic and agricultural purposes to which it can be reasonably applied. In re Opinion of the Justices, 106 A 865, 118 Maine 503, 523.

In view of the fact that the contemplated use of water from the Merrimack River for irrigation purposes constitutes a negligible proportion of the total amount of water available and would have no effect on the existing water level, it is my conclusion that the proposed use is reasonable within the doctrine of riparian privilege.

Very truly yours,

John N. Nassikas  
Assistant Attorney General

JNN:rm